

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 351

Property Insurance Rate Reduction

SPONSOR(S): Legg

TIED BILLS:

IDEN./SIM. BILLS: SB 742

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee		Callaway	Cooper
2)	Military & Local Affairs Policy Committee			
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

A sinkhole is defined in Florida law as a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole may form either by the ground collapsing on itself to form a hole or by the ground settling to form a crater or indentation in the soil. Florida has more sinkholes than any other state in the nation. Most sinkholes in Florida are located in the west-central part of Florida, consisting of Marion, Orange, Sumter, Hernando, Pasco, Hillsborough, Polk, and Pinellas counties.

Florida has had a law in place since 1981 requiring insurance companies offering property coverage to provide coverage for damage resulting from sinkholes. Current law requires the insurer to cover catastrophic ground cover collapse only. This coverage does not cover structural damage due to settling or cracking of the foundation, structure, or building. Coverage for this type of sinkhole damage can be obtained by the policyholder for an additional premium.

Although there are provisions in current law requiring insurers to provide property insurance rate discounts and credits for homeowners owning property built with construction techniques demonstrated to reduce windstorm losses and for effective enforcement of building codes by local building officials, there is no provision in current law relating to property insurance discounts or credits for properties constructed in a manner to reduce sinkhole losses or located in an area with local building requirements designed to reduce sinkhole losses. When setting property insurance rates, the bill requires insurance companies to consider local ordinances or amendments to the statewide building code that reduce or eliminate geologic hazards. In effect, the bill requires insurers to take into account sinkhole mitigation or prevention factors enacted by local governments and reduce property insurance rates if the property's sinkhole mitigation or prevention factors reduce the risk of loss for the property. Pasco County has two local ordinances designed to reduce property loss related to sinkholes. Although some other Florida counties have enacted local ordinances relating to sinkholes, none of the ordinances address sinkhole mitigation and prevention.

This bill does not appear to have a fiscal impact on state or local governments. Personal and commercial property owners in areas of the state that have local ordinances or local amendments to the Florida Building Code that reduce or eliminate geologic hazards may have reduced residential property insurance rates and resulting premiums.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

A sinkhole is defined in Florida law as a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater.¹ A sinkhole may form either by the ground collapsing on itself to form a hole or by the ground settling to form a crater or indentation in the soil. Florida has more sinkholes than any other state in the nation.² Most sinkholes in Florida are located in the west-central part of Florida, consisting of Marion, Orange, Sumter, Hernando, Pasco, Hillsborough, Polk, and Pinellas counties.³

Florida has had a law in place since 1981 requiring insurance companies offering property coverage to provide coverage for damage resulting from sinkholes.⁴ Current law requires the insurer to cover catastrophic ground cover collapse only.⁵ This coverage does not cover structural damage due to settling or cracking of the foundation, structure, or building. Coverage for this type of sinkhole damage can be obtained by the policyholder for an additional premium.⁶

Local Ordinances Relating to Sinkholes

Pasco County has enacted two local ordinances relating to sinkholes.⁷ The permit tracking ordinance adopted on March 13, 2007 creates a system and public record to track sinkhole investigation and remediation work done on existing properties. This ordinance requires the issuance of an investigation permit when a property is tested for potential ground settlement activity. Since the adoption of the ordinance, 2,446 investigation permits have been issued. Once the testing is done, an investigation report must be filed with Pasco County containing the investigation findings and remediation recommendations. Before a property can be remediated, a remediation permit must be issued. Pasco County has issued 1,998 remediation permits since the ordinance's adoption. Once remediation repairs are complete, a remediation report must be filed with Pasco County. The remediation report must contain information detailing the remediation activities, the materials used for the repairs, the cost

¹ s. 627.706, F.S., (2008).

² University of Florida; Institute of Food and Agricultural Sciences (IFAS); *Plant Management in Florida's Waters: Sinkholes*; available at <http://aquat1.ifas.ufl.edu/guide/sinkholes.html>, viewed February 12, 2009.

³ http://www.dep.state.fl.us/geology/geologictopics/sinkhole/florida_sinkhole_poster.pdf

⁴ Section 2, chapter 81-280, Laws of Florida (L.O.F.).

⁵ s. 627.706, F.S. (2008).

⁶ Id.

⁷ Copies of the two Pasco County ordinances relating to sinkholes are on file with the Insurance, Business, & Financial Affairs Policy Committee.

of the repairs, an explanation of the differences between the remedial activity recommended in the investigation report and the remediation performed, and the amount paid by insurers for ground settlement claims on the property remediated.

The geological hazards ordinance adopted by Pasco County on February 12, 2008 prohibits the location of future buildings, structures, roadways, parking lots, and retention/detention ponds in areas where geologic hazards are determined to exist or the potential for the development of such hazards is possible and such conditions are not or cannot be remediated. It also imposes soil compaction standards during site and building development. Specifically, this ordinance requires development plans submitted to Pasco County to be accompanied by a Geotechnical/Geological Engineering Report which provides for an evaluation of the property proposed for development and imposes development and construction recommendations that include site preparation, fill placement, pavement design considerations, foundation construction requirements, minimum requirements for construction inspection and testing and recommendations for mitigation of known or found geological hazardous areas. The ordinance also imposes land construction requirements which include: compaction standards for fill placed in building pad areas, engineering certifications for the building pad areas, building permit application requirements that include a statement by an appropriate design professional that the report has been reviewed and the proposed building is appropriately designed for the conditions that exist on the proposed building area, and building inspection requirements.

Pasco County is also in the process of adopting a local technical amendment to the Florida Building Code requiring increased foundation standards for structures to include additional rebar to strengthen the ability of a foundation to withstand settlement activity. No other local government has adopted local technical amendments to the Florida Building Code enacting local building requirements relating to sinkhole mitigation or prevention.

Although some other Florida counties have enacted local ordinances relating to sinkholes, none of the ordinances address sinkhole mitigation and prevention akin to the Pasco County ordinances.⁸

Effect of Proposed Changes

Although there are provisions in current law requiring insurers to provide property insurance rate discounts and credits for homeowners owning property built with construction techniques demonstrated to reduce windstorm losses and for effective enforcement of building codes by local building officials, there is no provision in current law relating to property insurance discounts or credits for properties constructed in a manner to reduce sinkhole losses or located in an area with local building requirements designed to reduce sinkhole losses.⁹

When setting property insurance rates, the bill requires insurance companies to consider local ordinances or amendments to the statewide building code that reduce or eliminate geologic hazards. The bill applies to all personal residential, commercial residential, and commercial nonresidential property insurance. In effect, the bill requires insurers to take into account sinkhole mitigation or prevention factors enacted by local governments and reduce property insurance rates if the property's sinkhole mitigation or prevention factors reduce the risk of loss for the property.

B. SECTION DIRECTORY:

Section 1: names the bill the "Property Insurance Rate Reduction Act" and creates an unnumbered section of law requiring insurance companies to consider local ordinances and local amendments to the

⁸ For example, Levy County Ordinance Sec 50-194 requires an evaluation of geologic hazards for certain developments, with the evaluation including an identification of the sinkhole locations on photographs and plats. Other Levy County ordinances require the preservation of sinkholes located in specified areas of the county and the identification of sinkholes on a site plan for proposed minor excavation and fill operations.

⁹ s. 627.0629, F.S. (2008) provides for rate discounts and credits for windstorm mitigation and for the manner in which building code enforcement addresses the risk of wind damage in a particular jurisdiction (known as the Building Code Effectiveness Grading Schedule (BCEGS) credit). The BCEGS evaluation does not take into account local building requirements relating to sinkholes because the BCEGS evaluation only takes into account local building requirements that weaken the statewide building code. Local building requirements that strengthen the building code, such as the ones relating to sinkhole mitigation and prevention enacted by Pasco County, are not considered in the BCEGS evaluation.

Florida Building Code relating to sinkhole risk mitigation and prevention in property insurance rate setting.

Section 2: provides an effective date of “upon becoming a law.”

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

3. None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Personal and commercial property owners in areas of the state that have local ordinances or local amendments to the Florida Building Code that reduce or eliminate geologic hazards may have reduced residential property insurance rates and resulting premiums.

Insurance companies that do not have expertise or data to evaluate and calculate how local building requirements reduce property losses from geologic hazards may incur expenses associated with obtaining the expertise or data to comply with the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Even though current law does not require insurance companies to consider local building requirements relating to sinkholes in property insurance rates, if the implementation of the requirements lessens an insurance company's actual loss experience, then the insurer will be required to adjust their property insurance rates to reflect the improved loss experience resulting from the local building requirements. However, this reduction may develop over time as an insurer's reduction in loss experience is realized.

The bill does not specify how an insurance company is to measure the impact of local building requirements on geologic hazards. Without specification of such, insurance companies may measure the impact differently and calculate any rate reductions associated with the impact differently. Measurement of the effectiveness of sinkhole mitigation and prevention ordinances is difficult given the lack of scientific, actuarial, or engineering methods and measures to quantify how effective sinkhole strengthening mechanisms are and how the mechanisms translate into reduced losses for a property.¹⁰

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

¹⁰ Telephone conversation with a representative of the Insurance Services Office on February 13, 2009. The Insurance Services Office provides data, analytics, and decision-support products for insurance companies and other entities. The services provided include actuarial, statistical, underwriting, claims data, standardized rating rules and policy forms. The Insurance Services Office also has expertise in predictive modeling.